

**IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF DELAWARE**

ASHLEY T. ADAMS,	)	
	)	
Plaintiff,	)	
	)	
v.	)	C.A. No. 05-249-KAJ
	)	
INTEGRITY STAFFING	)	
SOLUTIONS, et al.,	)	
	)	
Defendants.	)	

**DEFENDANTS DAWN HARPER-SMITH AND CHERYL DENNENY'S JOINT REPLY  
MEMORANDUM OF LAW IN SUPPORT OF THEIR MOTIONS TO DISMISS  
PLAINTIFF'S COMPLAINT**

Sean P. McDevitt (DSB #2894)  
Pepper Hamilton, LLP  
Hercules Plaza, Suite 5100  
1313 N. Market Street  
P.O. Box 1709  
Wilmington, DE 19899-1709  
(302) 777-6500

**TABLE OF CONTENTS**

	<u>Page</u>
I. STATEMENT OF THE NATURE AND STAGE OF THE PROCEEDINGS.....	1
II. LEGAL ARGUMENT .....	1

**TABLE OF AUTHORITIES**

**CASES**

<u>Al-Kharzraji v. Saint Francis College</u> , 784 F.2d 505 (3d Cir. 1986).....	1, 2
<u>Barron v. St. Joseph's University</u> , Civ. A. No. 01-3063, 2002 U.S. Dist. LEXIS 122286 (E.D. Pa. 2002).....	2
<u>Kachmar v. Sungard Data Systems, Inc.</u> , 109 F.3d 173 (3d Cir. 1997).....	2
<u>Nelson v. Fleet National Bank</u> , 949 F. Supp. 254 (D. Del. 1996) .....	2
<u>Sheridan v. E.I. Dupont de Nemours and Co.</u> , 100 F.3d 1061 (3d Cir. 1996).....	2

**STATUTES**

42 U.S.C. § 2000e-1 .....	1, 2
42 U.S.C. §1981.....	1, 2

Defendants Dawn Harper-Smith (“Harper-Smith”) and Cheryl Denny (“Denny”) jointly respond to Ashley Adams (“Adams”) briefs opposing the motions to dismiss under Fed. R. Civ. P. 12(b)(6). Adams’ claims against Harper-Smith and Denny should be dismissed because Adams has cited no relevant that contradicts the well-settled law of the Third Circuit which holds that there is no individual liability under Title VII.

## **I. STATEMENT OF THE NATURE AND STAGE OF THE PROCEEDINGS**

On April 28, 2005 Adams filed her Complaint against several different companies, as well as Harper-Smith and Denny, alleging race discrimination and retaliation under Title VII of the Civil Rights Act of 1964. On May 26, 2005, Denny filed a Motion to Dismiss on the grounds that there is no individual liability under Title VII. On June 20, 2005, Harper-Smith filed a similar Motion to Dismiss. On November 12, 2005, Adams filed opposition briefs. Denny and Harper-Smith submit this Reply in response to Adams’ opposition briefs.

## **II. LEGAL ARGUMENT**

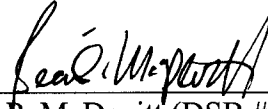
Adams seeks to impose liability on Denny and Harper-Smith under Title VII, citing Al-Kharzraji v. Saint Francis College, 784 F.2d 505, 518 (3d Cir. 1986) for the proposition that individuals may, in fact, be held liable for Title VII violations. Adams’ reliance on this case is misplaced. Al-Kharzraji was specifically limited to the issue of whether an individual defendant could be held liable under § 1981. Here, Adams seeks to impose liability on her Denny and Harper-Smith under Title VII – an issue that was never addressed by Al-Kharzraji. Consequently, Al-Kharzraji does not support Adams’ contention that Ms. Harper-Smith and/or Ms. Denny can be held individually liable under Title VII.

The Third Circuit’s decision in Sheridan v. E.I. DuPont de Nemours and Co., 100 F.3d 1061 (3d Cir. 1996) holds that individuals cannot be held liable under Title VII. See.

Sheridan has been consistently followed. See, Kachmar v. Sungard Data Systems, Inc., 109 F.3d 173, 184 (3d Cir. 1997) (affirming district court's dismissal of Title VII claims against two individual defendants); Nelson v. Fleet National Bank, 949 F. Supp. 254, 258 (D. Del. 1996) (finding that plaintiff's manager could not "under any set of facts, be held individually liable for Title VII violations."); Barron v. St. Joseph's University, Civ. A. No. 01-3063, 2002 U.S. Dist. LEXIS 122286, \*12 (E.D. Pa. 2002) (finding plaintiff could not sustain a claim under Title VII against an individual defendant). Therefore, Harper-Smith's and Denny's Motions to Dismiss the Complaint should therefore be granted.

Dated: November 22, 2005

Respectfully Submitted,



Sean P. McDevitt (DSB #2894)  
Pepper Hamilton, LLP  
Hercules Plaza, Suite 5100  
1313 N. Market Street  
P.O. Box 1709  
Wilmington, DE 19899-1709  
(302) 777-6500

**IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF DELAWARE**

ASHLEY T. ADAMS,	)	
	)	
Plaintiff,	)	
	)	
v.	)	C.A. No. 05-249-KAJ
	)	
INTEGRITY STAFFING	)	
SOLUTIONS, et al.,	)	
	)	
Defendants.	)	

**NOTICE OF SERVICE**

I hereby certify that I caused two copies of the foregoing Motion and corresponding Reply Memorandum of Law in Support of Defendants Dawn Harper-Smith and Cheryl Denny's Motions to Dismiss Plaintiff's Complaint to be served on the date set forth below, via federal express to:

Ashley T. Adams  
716 North Barrett Lane  
Christiana, DE 19702  
*Plaintiff*

John H. Newcomer, Jr., Esquire  
Duane Morris LLP  
1100 North Market Street  
Suite 1200  
Wilmington, DE 19801  
*Attorneys for Defendant Randstad North America, L.P.  
and "Women of India Nationality"*

Dated: November 22, 2005

  
\_\_\_\_\_  
Sean P. McDevitt